

SUF

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED  
08 JAN -7 AM 11:02

UNITED STATES OF AMERICA,

Plaintiff,

v.

Gabriel Octavio ORTEGA-Gonzalez,

Defendant

Magistrate Docket No. 7918

'08 MJ 0044

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **January 4, 2008** within the Southern District of California, defendant, **Gabriel Octavio ORTEGA-Gonzalez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

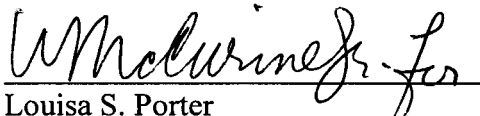
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 7th DAY OF JANUARY 2008



Louisa S. Porter  
UNITED STATES MAGISTRATE JUDGE

### PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:


On January 4, 2008, Border Patrol Agent S. Carlson was performing all terrain vehicle duties in the Imperial Beach, California area of operations. This area is approximately four miles east of the San Ysidro, California Port of Entry and approximately 100 yards north of the United States/Mexico International Boundary Fence.

At approximately 5:20 p.m., the operator of the Remote Video Surveillance System (RVSS) advised Agent Carlson via service radio of two unknown individuals heading north from an area known as "Britannia". Agent Carlson responded to the location and after a brief search found two individuals, one later identified as the defendant **Gabriel Octavio ORTEGA-Gonzalez**, lying in the brush. Agent Carlson identified himself as a U.S. Border Patrol Agent and questioned the two individuals as to their citizenship and immigration status. Each of the individuals including defendant freely admitted that they are citizens and nationals of Mexico illegally present in the United States. At approximately 5:30 p.m., Agent Carlson arrested the defendant and the other individual and had them transported to the Imperial Beach Border Patrol Station for processing.

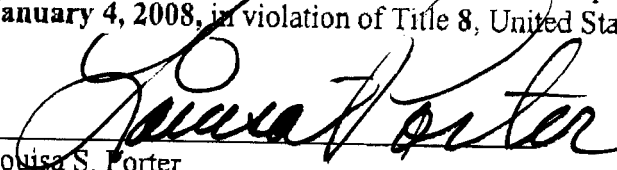
Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on March 10, 2007 through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

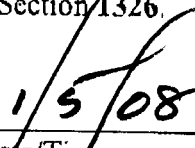
The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico. The defendant further admitted that he had been previously deported from the United States. The defendant also stated that he has never applied or requested permission to re-enter the United States legally.

Executed on January 5, 2008 at 10:00 a.m.

  
\_\_\_\_\_  
Ismael A. Canto  
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on January 4, 2008, in violation of Title 8, United States Code, Section 1326.

  
\_\_\_\_\_  
Louisa S. Porter  
United States Magistrate Judge

  
\_\_\_\_\_  
Date/Time

1/5/08 10:10 AM